

Weil, Gotshal & Manges LLP

VIA ECF

767 Fifth Avenue
New York, NY 10153-0119
+1 212 310 8000 tel
+1 212 310 8007 fax

Steven A. Reiss
+1 (212) 310-8174
steven.reiss@weil.com

January 7, 2015

The Honorable Thomas P. Griesa
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *Sirius XM Radio Inc. v. SoundExchange, Inc., et al.*, No. 12-cv-02259 (TPG) (S.D.N.Y.)

Dear Judge Griesa:

We represent Sirius XM Radio Inc. (“Sirius XM”) in the above referenced matter and write to request that the Court reset the status conference previously scheduled for October 30, 2014 before it was taken off calendar.

By way of background, on March 27, 2012, Sirius XM filed a Complaint against Defendants SoundExchange, Inc. (“SoundExchange”) and American Association of Independent Music’s (“A2IM”). Sirius XM alleges that the Defendants have engaged in a *per se* unlawful agreement and group boycott to prevent holders of copyrights in sound recordings from entering into direct licenses with Sirius XM in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, monopolization and conspiracy to monopolize in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2, and tortious interference. Sirius XM seeks damages and injunctive relief to stop the challenged conduct.

On May 7, 2012, Defendants filed motions to dismiss the Complaint (Dkt. Nos. 11-12, 15-16), which were fully briefed as of June 28, 2012 (Dkt. Nos. 26, 28, 29). The Court heard oral argument on Defendants’ motions to dismiss on December 14, 2012 (Dkt. No. 31). At Defendants’ request, discovery was stayed pending the Court’s decision on Defendants’ motions to dismiss. A decision by the Court is pending on Defendants’ motions to dismiss.

On January 31, 2013, Sirius XM and A2IM entered into a Stipulation of Agreed Settlement and Dismissal, which was so ordered by the Court on the same day at a hearing on this matter (Dkt. No. 33). Accordingly, the Stipulation of Agreed Settlement and Dismissal between Sirius XM and A2IM renders moot a decision by the Court on A2IM’s motion to dismiss.

Sirius XM and SoundExchange had engaged in similar discussions to those between Sirius XM and A2IM in advance of the January 31, 2013 Court conference, but a resolution could not be reached. In

Hon. Thomas P. Griesa
January 7, 2015
Page 2

Weil, Gotshal & Manges LLP

advance of the previously scheduled October 30, 2014 status conference and continuing thereafter, Sirius XM and SoundExchange engaged in another round of such discussions, but again a resolution could not be reached. If the Court desires, we can provide the Stipulation of Agreed Settlement and Dismissal proposed by each of Sirius XM and SoundExchange in an effort to settle the case.

Given the apparent impasse, Sirius XM respectfully requests that the Court reset the previously scheduled status conference as it would be helpful for the parties to move this case forward. We have conferred with counsel for SoundExchange and the parties are available on Thursday, January 29.

We look forward to hearing from the Court.

Respectfully Submitted,

/s/ Steve Reiss

Steven A. Reiss

cc: Richard L. Stone (by email)
Michael B. DeSanctis (by email)